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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Elimination of all forms of religious intolerance**

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, submitted in accordance with Assembly resolution 72/177.

* A/73/150.

** The present document was submitted after the deadline so as to reflect the most recent developments.

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Interim report of the Special Rapporteur on freedom of religion or belief

Summary

In the present report, the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, highlights the interrelationship between freedom of religion or belief and violent extremism. He stresses the duty of States to ensure that any restriction imposed on the right to freedom of religion or belief must strictly comply with the limitations regime stipulated by international human rights law. He argues that ensuring the rights of all persons reduces conflict involving religion or belief, thereby better facilitating human security.

While cautioning against securitizing religion or belief, the Special Rapporteur urges States to operationalize various tools developed by the United Nations system in the context of freedom of religion or belief and the prevention of mass atrocities, and which are grounded in the human rights framework, to build societal resilience against violent extremism. He encourages States to develop national action plans with the participation of national human rights institutions, civil society organizations and development partners to facilitate the implementation of specific roles contained in these tools for national and international actors, including the mass media, judicial authorities, oversight bodies, civil society, religious leaders and faith-based actors. He further calls on the relevant United Nations mechanisms to encourage the formulation of these plans and increase transparency on their implementation and, in particular, to support the convening of the seventh meeting of the Istanbul Process for Combating Intolerance, Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief.

I. Activities of the Special Rapporteur

1. The Special Rapporteur undertook a visit to Tunisia from 9 to 19 April 2018. He will present the report on that mission at the fortieth session of the Human Rights Council to be held in March 2019. He has also accepted an invitation from the Government of Sri Lanka to visit that country in December 2018.

2. During the reporting period, the Special Rapporteur continued to participate in international gatherings related to the right to freedom of religion or belief. He participated in a meeting of the International Contact Group on Freedom of Religion or Belief held in Geneva on 6 March 2018, and attended a workshop on interreligious dialogue held in the Sudan on 8 and 9 May. On 23 May, he attended a symposium on freedom of religion or belief, cultural rights and women held in Geneva. In Vienna, on 5 June, the Special Rapporteur addressed the Human Dimension Committee of the Organization for Security and Cooperation in Europe, and on 12 June he participated in the Global Media Forum held in Bonn, Germany. He also took part in discussions with the Working Party on Human Rights and the Working Party on Fundamental Rights, Citizens Rights and Free Movement of Persons of the Council of the European Union in Brussels on 13 June. On 28 June, he attended a consultation in Geneva on ways to improve the engagement of the mandate with monitors of anti-Semitism. He participated in a consultation on the Rabat Plan of Action and Asia held in Geneva on 29 June and attended the "Ministerial to Advance Religious Freedom" in Washington, D.C., on 25 and 26 July.

II. Relationship between freedom of religion or belief and national security

3. The "war on terrorism" since the beginning of the twenty-first century has been marked by extraordinary national security measures which have resulted in myriad violations and abuses of fundamental human rights and principles, including the right to freedom of religion or belief. Amid legitimate demands to ensure public safety and national security, Governments have instituted stricter regulations on religious expression and the role of religion or belief in the public sphere, both online and off. Some States have instituted discriminatory practices that intentionally or unintentionally target individual adherents or groups of persons of a particular faith they perceive to be predisposed to terrorist or other violent acts. Others have adopted measures which violate the right to form and hold opinions based on conscience, especially those beliefs deemed objectionable or offensive to others or infringe on the *forum internum* of the right to freedom of religion or belief.

4. In less than a decade, stakeholders began to recognize the complexities of the challenges posed by this type of violence and acknowledged the need for a more comprehensive approach which encompasses not only ongoing, essential security-based counter-terrorism measures but also systematic preventive measures which directly address the drivers of violent extremism and terroristic acts (see A/70/674).[1] The new approach recognized the importance of countering both the immediate triggers of terrorism and the root causes that foster conditions conducive to the spread of terrorism. The new strategy also stressed the importance of addressing the rights of the victims of violent extremism and terrorism as well as those whose rights have

[1] There is no internationally agreed definition of "violent extremism". However, the emerging usage within the United Nations is "violent extremism ... conducive to terrorism" (see Security Council resolution 2178 (2014)). See also paras. 23–27 below.

been violated by counter-terrorism law and practices (see A/70/674 and A/HRC/16/51).

5. In 2006, the United Nations Global Counter-Terrorism Strategy adopted by the General Assembly established respect for human rights and the rule of law as one of its four pillars, recognizing a human rights-based approach as key to global efforts (see resolution 60/288). Notwithstanding that recognition, measures that have since been adopted by States continue to erode respect for civil liberties. Various measures have expanded the ambit of criminalized activity, with ever-increasing attention being paid to early intervention tactics intended to dissuade individuals potentially on a path towards supporting or committing violent extremist acts. However, a lack of consensus definitions for key concepts, such as "radicalization" or "violent extremism", has undermined both the effectiveness of various measures and the ability to assess their compliance with State obligations under international human rights law.

6. Human rights monitors have criticized initiatives to prevent and counter violent extremism for their erosion of civil liberties, their propensity for perpetuating discrimination against several religious or belief communities, their lack of transparency and accountability and for securitizing religion.[2] In his 2016 report on the human rights impact of initiatives to prevent and counter violent extremism, the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, highlighted elements of such programmes that continued to infringe on a range of human rights and fundamental freedoms, including freedom of religion or belief. He concluded that "a wide array of legislative, administrative and policy measures are pursued that can have a serious negative impact on manifold human rights ... [and] can stigmatize groups and communities, undermining the support that Governments need to successfully implement their programmes, and having a counter-productive effect" (see A/HRC/31/65, para. 54).

7. The question of how to effectively address national security exigencies while respecting human rights constitutes a pivotal challenge to human security today. Contrary to the discourse which posits freedom of religion or belief (and other human rights) and national security to be competing and mutually exclusive values that have to be "balanced" against each other, various mandate-holders, including the Special Rapporteur on freedom of religion or belief, have over the past three decades recognized the complementary, interdependent and mutually reinforcing relationship between the promotion and protection of human rights, including freedom of religion or belief, and national security.

8. Moreover, it should be noted that "national security" is not a permissible ground for restricting manifestations of religion or belief under article 18, paragraph 3, of the International Covenant on Civil and Political Rights. However, restrictions on a number of rights that are related to the enjoyment of the right to freedom of religion or belief, such as freedom of expression or association, are permissible to ensure national security if the further conditions of the related limitation clauses are also met. Regardless, the right to freely manifest religion or belief can only be limited if the following five conditions are strictly met: (a) the measure in question is prescribed by law (i.e., it is accessible, foreseeable and drafted with sufficient precision to enable a rational person to regulate his or her conduct); (b) it is necessary for the purposes

[2] See, for example, Amnesty International, *Dangerously Disproportionate: The Ever-Expanding National Security State in Europe* (London, 2017). See also the report of the former Special Rapporteur on freedom of religion or belief, Asma Jahangir, warning about the counterproductive impact of religious profiling in her report to the Human Rights Council (see A/HRC/7/10/Add.3, para. 41).

of protecting public safety, order, health or morals, or the fundamental rights and freedoms of others; (c) it conforms to the principle of proportionality; (d) it is applied in a way that does not vitiate the rights guaranteed under freedom of religion or belief; and (e) it is not discriminatory in purpose or effect.

9. Furthermore, empirical research shows that increased respect for freedom of religion or belief for all is associated with lower levels of religious persecution and of conflicts based on religion.[3] Studies on "horizontal inequalities" also demonstrate that inequality and discrimination on the basis of religious identity are also likely to increase the occurrence of conflicts.[4] As a result, it is essential that the authorities responsible for meeting security needs engage with, and listen to, those who exercise agency with regard to freedom of religion or belief,[5] as well as actors involved with promoting civil liberties.

10. In the present report, the Special Rapporteur briefly explores how violence in the name of religion or belief has affected perceptions about the relationship between human rights and national security. He contends that strategies to prevent violent extremism have tended to alienate a range of religious or belief communities, undermining the enjoyment of several fundamental freedoms and defeating the ultimate objectives of enhancing public safety, tolerance and mutual understanding (see A/HRC/31/65).[6] Consequently, the Special Rapporteur asserts that, in certain ways, some policy practices for countering violent extremism have "securitized" religion or belief, wherein religion is perceived as a threat requiring extraordinary, punitive legal and policy measures.[7]

11. As a result, freedom of religion or belief and the range of rights on which it depends are being undermined or violated, public trust and societal resilience is being enfeebled and efforts to prevent violent extremism are being undercut. Therefore, the Special Rapporteur also argues that ensuring the right to freedom of religion or belief for all persons reduces conflict involving religion or belief, thereby better facilitating social cohesion and human security.

12. Finally, the Special Rapporteur surveys some of the initiatives undertaken within the United Nations human rights framework to mobilize respect for freedom of religion or belief as a positive resource for strengthening societal cohesion, reinforcing public trust and enhancing resilience against violent extremism, in line with the agenda for implementation outlined by the Special Rapporteur in his first report to the Human Rights Council (A/HRC/34/50).

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[3] Brian Grim and Roger Finke, *The Price of Freedom Denied: Religious Persecution and Conflict in the Twenty-First Century* (Cambridge University Press, 2010). See also A/HRC/70/674, paras. 26 and 28.

[4] Discrimination on the basis of religion or belief is one among several factors that empirical research into horizontal inequalities considers. See, for example, Frances Stewart, "Horizontal inequalities as a cause of conflict" (2009). Available at www.bradford.ac.uk/social-sciences/media/socialsciences/BDLStewart.pdf.

[5] This includes the need to consult religious and other minorities in matters which affect them, as upheld in minority rights (see article 2, paragraph 3, of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (General Assembly resolution 47/135, annex)).

[6] See also Faiza Patel and Amrit Singh, "The human rights risks of countering violent extremism programs", 7 April 2016. Available at www.justsecurity.org/30459/human-rights-risks-countering-violent-extremism-programs/.

[7] Barry Buzan, Ole Wæver and Jaap de Wilde, *Security: A New Framework for Analysis* (London, Lynne Rienner Publishers, 1998).

III. A broad spectrum of national laws and practices

13. States have responded to violent extremism with a rapid proliferation in legislative, administrative and policy measures that target a range of activities carried out by both individuals and communities. The measures include legislation that criminalizes the presumed "precursors" to terrorism (i.e., speech deemed to be "extremist", racist, xenophobic or discriminatory), and activities that focus on countering the recruitment strategies advanced by terrorist groups. Some States have supported programmes that focus on the so-called triggers for violent extremist behaviour by promoting civil society interventions or fostering the capacity of certain communities to advance detection and counselling programmes. Others have adopted measures that focus on the underlying conditions, or drivers, of violent extremism.

14. In many cases, State responses to violent extremism pose serious challenges to the defence of freedom of religion or belief. They have responded to violent extremism by: (a) enacting new laws and policies which directly restrict freedom of religion or belief; (b) curtailing enjoyment of freedom of religion or belief as a consequence of setting limitations on other fundamental rights; or (c) scrutinizing religious organizations and intruding into the religious affairs of religious communities. In recent years, a number of joint communications have been issued to States by the special procedures mandate holders, together with the Special Rapporteur on freedom of religion or belief, concerning direct discriminatory practices and heavy-handed State restrictions imposed on persons belonging to religious or belief minorities who are alleged to be threats to the public order.

A. Registration requirements

15. Many Governments have become concerned about the possibility that groups viewed as "extremist", or deemed to be threats to national identity or the public order, could acquire legal personality, thereby gaining benefits, exemptions and other entitlements. Some States have addressed these concerns by creating mandatory registration systems, denying or revoking the registration of certain communities, enacting more restrictive registration laws or requiring formerly registered communities to re-register (see A/HRC/22/51, paras. 42–43).

16. As a consequence of such measures, some religious or belief communities have been unable to gain access to or maintain legal personality status. Access to legal personality falls within the scope of the right to freedom of religion or belief. It is essential for the day-to-day operations of many religious or belief communities. However, under international human rights law, religious or belief communities are not obliged to seek legal personality if they do not wish to do so. Individual believers and non-believers and religious or belief communities still hold rights under international human rights law even if formal recognition for their faith is not provided for or not granted by a State or authority, or even if it is revoked.

17. Regardless, depriving a religious or belief community of legal status can have a tremendous impact on the collective aspects of the right to freedom of religion or belief, including the ability of adherents to practice their faith together with others — jeopardizing the viability of the community itself. Absence of legal personality also raises questions of property ownership for these communities, including those which

function as places of worship and education. Again, that can directly affect the collective dimension of the human right to freedom of religion or belief.[8]

B. Freedom of movement

18. Some States have modified various aspects of their legislation to prevent the internal movement of individuals considered to be "extremists", which can result in discriminatory practices involving religion or belief. Contrary to international human rights norms, these practices include initiatives to relocate individuals within their country of residence or nationality, measures that amend the rules applicable to asylum seekers or migrants and steps to review citizenship rules and even revoke citizenship. Such measures can obviously have a serious impact on freedom of movement. They also negatively affect the right to the presumption of innocence and the right to due process, the right to be protected against the arbitrary deprivation of nationality, the right to liberty and security and the right to freedom of religion or belief (see A/HRC/31/65, para. 41).

C. Profiling, surveillance and harassment

19. States also continue to adopt, within the framework of preventing and countering violent extremism, legislation and policies that profile members of certain religious or belief groups (which are deemed by the State concerned as inclined towards "radicalization", "extremism", or criminality) on the basis of stereotypes, including policies that classify peaceful manifestations of religious belief as indicators of support for violent extremism. Others are increasingly misusing vaguely worded national security measures to target political opponents, human rights defenders, journalists, environmental activists, artists and labour leaders. Many other States have concerns that some places of worship are environments for radicalization that will lead to terrorism and/or recruitment by groups that espouse violence, and have responded by reviewing sermons, screening and interrogating those who enter and leave places of worship and employing other monitoring activities. Occasionally, Governments have shuttered places of worship and prohibited certain religious leaders from maintaining or being appointed to certain positions in the community.

20. Moreover, according to a study, there are still Governments who use security reasons to formally ban religious or belief groups and render membership in these groups a criminal offence.[9] The criteria for this do not always appear to be clear, or closely connected to proof of the group's engagement in or material support for violence or its incitement. Some States only recognize a specific religion or religions, restrict the practice of other religions or beliefs and invoke so-called security measures to inhibit the promotion of those religions, often contending that allowing for the practices of different religions or beliefs would increase social hostilities. In many cases, persons prosecuted under these laws are deemed to be members of a faith or belief community that "distorts" the interpretations of "recognized" religions.

21. In a similar vein, for some States the promotion of a specific religion or religions is, in fact, a matter of national identity and therefore its protection is, in itself, treated

[8] For a rich discussion of the negative impact of this, see Organization for Security and Cooperation in Europe (OSCE), *Guidelines on the Legal Personality of Religious or Belief Communities* (Warsaw, OSCE Office for Democratic Institutions and Human Rights, 2014). Available at www.osce.org/odihr/139046.

[9] Pew Research Center, *Global Uptick in Government Restrictions on Religion in 2016* (2018). Available at www.pewforum.org/2018/06/21/global-uptick-in-government-restrictions-on-religion-in-2016/.

as a national security imperative (see A/HRC/37/49). These States may, therefore, promote a specific religion or religions through indirect means, as opposed to official legislation. For example, States may promote a particular religion, or an interpretation of a religion, through social media and official Government statements while simultaneously securitizing other religions or beliefs in order to limit proselytization among national populations.[10]

IV. Key challenges to preventing and countering violent extremism and protecting freedom of religion or belief

22. The protection of the right to freedom of religion or belief while countering violent extremism is complicated for a number of reasons. First, the lack of a consensus definition as to what constitutes "violent extremism" undercuts the development of a cogent global strategy for countering terrorism and preventing violent extremism and contributes to abusive practices, such as the conflation of beliefs and practices that are believed to be extreme with "violent extremism". Second, the use of violence in the name of religion or belief by some tends to stigmatize other members of that religion or belief community, regardless of their conduct. Third, as mentioned in paragraph 8 above, although what one believes or does not believe is absolutely inviolable, the public manifestation of religion or belief may be restricted in exceptional circumstances and in strict compliance with the limitations regime prescribed by international law. Finally, the right to freedom of religion or belief is both reinforced and challenged by other human rights, such as freedom of expression.

A. Defining "violent extremism"

23. The former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Mr. Emmerson, noted in his 2016 report to the Human Rights Council that a significant challenge to countering violent extremism was the lack of a universally accepted comprehensive definition for identifying instances of such acts (see A/HRC/31/65, para. 55). Moreover, the existing international legal framework on counter-terrorism stipulates obligations in relation to terrorism and violent extremism without providing a comprehensive definition of these terms.[11] This has led United Nations entities that are engaged in preventing or countering violent extremism and many States to adopt overly broad definitions that are prone to unintended human rights abuses and even the deliberate misuse of the term (see A/HRC/31/65).

24. Another former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, warned that "there is a risk that the international community's use of the notion of 'terrorism', without defining the term, results in the unintentional international legitimization of conduct undertaken by oppressive regimes, through delivering the

[10] Sos Avetisyan and others, "The 'mantra of stability' versus human security in the post-Soviet space", *Global Campus Human Rights Journal*, vol. 1, No. 2 (2017).

[11] However, the International Convention for the Suppression of the Financing of Terrorism, art. 2 (b), defines a terrorist act as: "Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act."

message that the international community wants strong action against 'terrorism' however defined" (see E/CN.4/2006/98, para. 27).[12]

25. It should be noted that radical or extreme views, in and of themselves, are not a threat to society if they are unconnected to violence or other unlawful acts, such as incitement to violence or discrimination, as legally defined in compliance with international human rights law. Moreover, the term "radical" has no clear meaning, and as a result the presumption should be that the right to hold and express such views and opinions is protected as a matter of international human rights law. Furthermore, there is no clear-cut pathway towards terrorism and no consistent set of factors driving terrorist radicalization. Profiles built on stereotypical assumptions based on religion, race, ethnicity, gender and socioeconomic status and so on are not only discriminatory but also ineffective.[13]

26. The United Nations High Commissioner for Human Rights and regional bodies have criticized laws that criminalize "extremism" for their targeting of non-violent conduct and their use of broad and imprecise definitions.[14] Pursuant to articles 18 and 19 of the International Covenant on Civil and Political Rights, the right to hold an opinion and the freedom to have or adopt a religion or belief of one's choice (*forum internum*) cannot be subject to any restriction.[15] States often conflate "extremism" and "radicalization" with violence, which is problematic since there is no empirical evidence to suggest a predictable link or linear progression from "extremist" thinking to violent acts. Moreover, alleging that a person or group of persons is "extremist" is not tantamount to proving that they are violent. Only those who have been ascertained as planning to carry out or perpetuating violent extremist acts can be deemed so.

27. States should, therefore, ensure that the focus of their security-oriented measures to prevent and counter violent extremism is on actual conduct, rather than opinions or beliefs, if they are to be both efficient and effective. States must demonstrate with clear evidence that individuals or groups of individuals have been involved in activities that incite discrimination or violence, or that they are undermining the rights and freedoms of others in other tangible ways, before any punitive steps are taken. The measures must be prescribed by law and be necessary, proportionate and non-discriminatory. That said, States must also foster the conditions under which extremist narratives that fall short of, or indeed cross, the threshold of incitement to violence are challenged, exposed and discredited, without removing space for the exercise of the rights to the freedoms of thought, conscience, religion or belief and of opinion and expression.

B. Misinterpretations of radicalization

28. History is replete with examples of religion or belief, or interpretations of religion or belief, being used to support or justify heinous acts of violence and discrimination. Such justifications have been identified as a source of sectarian

[12] In his final report to the Human Rights Council, Mr. Scheinin offered model definitions of terrorism and incitement to terrorism (see A/HRC/16/51, paras. 29–32).

[13] L. Slachmuijlder, *Transforming Violent Extremism: A PeaceBuilder's Guide* (Washington, D.C., Search for Common Ground, 2017).

[14] See A/HRC/33/29, paras. 18 and 61; European Commission for Democracy through Law, *Opinion on the Federal Law on Combating Extremist Activity of the Russian Federation*, No. 660/2011, CDL-AD (2012)016, paras. 31, 35–36, 49; and European Court of Human Rights, *Case of Mariya Alekhina and Others v. Russia*, application No. 38004/12, Judgment of 17 July 2018, paras. 257 and 267–268.

[15] See A/HRC/33/29, paras. 61–62; Human Rights Committee, general comment No. 22 (1993) on the right to freedom of thought, conscience and religion, para. 3; and Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 9.

conflict, used to legitimize wars of conquest and to perpetuate deplorable acts of disregard for equality and basic respect for human dignity. Most recently, massacres, ethnic cleansing and acts of genocide have been carried out either in the name of religion or as a result of the victims' religious identity.

29. Religion or belief can generally be implicated in violent extremism in two ways. First is the use of violence in the name of religion, either in a targeted or indiscriminate manner. This may include coercive acts in, or related to, the private sphere, such as "honour" killings. Second is a recourse to violence as a manifestation of collective religious hatred against persons targeted because of their religious or belief identity. In practice, the two kinds of violence frequently overlap.

30. Violence in the name of religion or belief is perpetrated by way of indiscriminate or targeted attacks on individuals or communities. They involve suicide attacks, repression and other forms of institutional and structural violence. The majority of these acts target local persons or institutions, but it has become increasingly commonplace in recent years to use violence in the name of religion or belief in local, everyday places of daily life to send messages around the world (see A/HRC/28/66).

31. In some countries, armed groups invoke religion to justify atrocities such as targeted mass killings, extrajudicial and summary executions, enforced disappearances, torture, sexual violence, indiscriminate attacks against civilians, mass expulsions, enslavement or the systematic destruction of certain communities. In other countries, vigilante groups harass religious or belief minorities by vandalizing cemeteries and places of worship, grabbing lands or properties and threatening their security (see A/68/268 and A/HRC/22/51).

32. To be clear, violent extremism is not confined to any particular religion or region; many religions have been invoked by State and non-State actors, in both the global north and the global south, to justify violence in its various forms. Acts of violent extremism might also be carried out with equal vigour in the name of left- and right-wing or other political ideologies whose followers steadfastly adhere to extremist violence to advance non-religious, atheist and secular political agendas. These actors have historically sought to exploit weak Governments and fractious conditions by capitalizing on people's sense of grievance — real or perceived — to galvanize them towards supporting or perpetrating violent acts.

33. Those targeted by advocates of violence see violent extremism as a means to better address their grievances or meet other needs based on their formative and everyday experiences. However, the path whereby an individual comes to perceive terrorist violence as a possible course of action is unclear. Studies undertaken so far demonstrate that, despite an identifiable set of common "push" and "pull" factors, the pathways from holding extreme views that lead to carrying out acts of terrorism are non-linear and unpredictable, and "triggers" of violent action are individualized (see A/HRC/31/65).

34. Moreover, the particular identity of these actors is neither emblematic of violent extremism nor does it define the nature of the ideology the perpetrators claim to espouse, even if that ideology may be considered radical. In addition, the fact that some individuals incite discrimination, hostility or violence is not an indication that a religious or belief community shares these views or condones violent activities. In this regard, as already noted, the acts of individual members of religious communities should be associated with the person in question rather than with the community and other members generally.

35. Violence in the name of religion or belief predominantly targets persons belonging to religious or belief minorities, including converts, humanists, atheists and agnostics who suffer from a climate of intimidation, repression or violence, globally

(see A/67/303, para. 15). However, such violence can also affect the dissident followers of the very same religion or belief, which may also be the majority religion in whose name such acts are perpetrated. The victims of these violent acts could also include a variety of other groups, including adherents to different indigenous beliefs and the followers of small or new religious movements, which are often stigmatized as "sects" or "cults". People suspected of undermining "national cohesion" are also frequent targets of violent manifestations of intolerance, and unfortunately the voices of moderation who actively oppose the abuse of their religion to justify violence and bigotry bear an increased risk of being accused of betrayal or blasphemy, which frequently incurs retaliatory penalties. Moreover, a climate of impunity can further aggravate these situations.

36. Furthermore, the gender dimension of these violent acts is evident in the harmful practices that are carried out in the name of religion or belief or tradition against scores of women and girls who are the victims of "honour" killings, acid attacks, amputations, floggings and other violent practices. Women and girls also disproportionately suffer from sexual violence such as rape, virginity testing, sexual enslavement, female genital mutilation, early and forced marriage, marriage by abduction and widowhood rituals — often in conjunction with forced conversion or other cruelties. Many of these acts of violence occur in the "private sphere" and are not perceived through a lens of security or public safety.

37. Homophobic and transphobic violence against persons on the basis of their sexual orientation and gender identity are also being perpetrated in the name of religion, both by private actors and State agents. Those perceived to be lesbian, gay, bisexual or transgender have been subjected to brutal actions following discovery or acknowledgement of their sexual orientation and gender identity, including gang rapes, so-called "curative" rapes and family violence (see A/HRC/14/22/Add.2, paras. 38–89). The gender dimension of violent extremism can also manifest itself in other ways, such as when violent groups leverage the stereotype that women and girls are unlikely to carry out violent acts as a tactic to better ensure that their plans go unhindered or when women and girls are forced into sexual slavery.

38. The use of violence in the name of religion has led many to be suspicious of all or certain religions, and to view religion as a threat to peace and harmony, arguing that religion unconfined to private life results in religiously motivated political struggles, conflict and violence, which are sources from which certain forms of terrorism draw their motivation. Others have argued that there is an actual link between some religious doctrines and acts of terrorism. Regrettably, the fact remains that even though religion or belief does not explicitly incite terrorism, there are people who are convinced it is legitimate, even necessary, to kill in the name of their faith or beliefs.

C. Reconciling the public and private dimensions of religion or belief

39. Although States are obligated under international law to support the right of everyone to hold a religion or belief, difficulties often arise when individuals choose to express their convictions, whether by organizing themselves as a religious or belief group or acting in accordance with the precepts of their religion or belief. While it is established that any restriction of the manifestation of religion or belief must strictly meet the limitations regime prescribed by international law, the precise extent of such limitations in specific circumstances has become a salient topic in many countries.

40. Controversies following the debates about whether the construction of minarets could be banned and ongoing conversations in numerous countries about whether people should be allowed to wear religious symbols in their places of education or

work, or indeed in public places, illustrate the complexities and pressing nature of questions regarding the scope and limitations of freedom of religion or belief. On the one hand, some secularists have strongly advocated that manifestations of religion should be restricted to the private sphere in order to maintain a "neutral" space in which all persons, of all origins and beliefs, can be treated equally. Others argue that everyone should be allowed to manifest their religion or belief freely, in accordance with their rights as enshrined in international human rights norms and standards, and highlight the uneven impacts that facially neutral laws have on different faith-based communities. The Special Rapporteur reiterates that any and all such restrictions on the manifestation of religion or belief must strictly comply with the limitations regime specified under international human rights law, and must be based on clear evidence.

41. The need to protect public safety and public order is of course clear. The danger, however, is that a State may use such an excuse to limit the rights of persons belonging to a religion or belief community that it finds inconvenient, and some have taken the public safety and order limitation to mean "public interest restrictions". In many cases, such limitations in the public's interest have been extended to promote a restrictive form of secularism.

42. Moreover, it is not always possible to separate conscience-based commitments and acts of religion or belief from faith or internal belief systems, particularly when deciding on issues concerning the right to "act" in accordance with one's religion or belief. That is, faith-based commitments cannot always be contained within the private sphere. For some, their religion or belief is a way of life, and certain precepts are understood to be enjoinments to public expression of religion or belief. Furthermore, values based on religion or belief often dictate standards of social conduct and responsibility that require individuals to act accordingly. In other words, for many there is a strong interrelationship between their beliefs and their way of life.

43. In recognition of this premise, the *forum internum* enjoys unqualified protection under international law. However, the underlying philosophy of several programmes to prevent and counter violent extremism attempt to place limitations on *forum internum* (which is an absolute, non-derogable right) vis-à-vis religious expression (which is not an absolute right). The Special Rapporteur notes that attempts to "police" the internal sphere may amount to indirect coercion in matters of religion or belief and may violate the absolute prohibition against intrusion in the *forum internum*.

D. Reconciling freedom of religion or belief and other rights

44. The exercise of freedom of religion or belief is dependent on the enjoyment of other human rights. These include freedoms of expression, peaceful assembly, association and movement, the rights to privacy and equality before the law, education, the highest attainable standard of health and many more. Freedom of religion or belief achieves its full meaning only in the broad context of human rights. Indeed, many aspects of freedom of religion or belief have little or no meaning if other human rights are not effectively secured. At times, this can result in competing claims between the right to freedom of religion or belief and other human rights, or between religious and secular interests.

45. While national security is not, as already noted, included in article 18, paragraph 3, of the International Covenant on Civil and Political Rights as a legitimate ground for limiting the manifestation of religion or belief, public safety is, and given the broad scope of activities that could be perceived to act as a threat to public safety, "there is a risk that States will cite them to justify restrictions on [freedom of religion or belief] imposed for reasons tantamount to national security

interests, by arguing that a [religious or belief] group is engaged in political activities that endanger public safety and order".[16]

46. Moreover, specific limitations based on national security concerns are permissible in relation to freedom of expression, subject to their compliance with the limitations regime stipulated by international human rights law.[17] Such restrictions have also been used to indirectly restrict freedom of religion or belief, trying to circumvent the safeguards that exist to protect it. For instance, the criminalization of vaguely defined types of speech such as "hate speech"[18] risks the arbitrary application of such laws to issues related to religion or belief. The consequences of arbitrarily criminalizing some forms of speech with a religious element as "hate speech" can result in severe consequences, even potentially leading to imprisonment for non-violent acts. Application of the law in this way, therefore, results in an indirect discrimination against one's right to freedom of religion or belief. This includes laws criminalizing apostasy and blasphemy, which may not only constitute restrictions to freedom of religion or belief, but also infringe on the right to freedom of expression.[19]

Anti-apostasy/anti-blasphemy laws

47. Shorn of direct links to acts of violence, the tendency to characterize certain manifestations of religion or belief as "extremist" or a "threat to public order" include the activities of missionaries or others who seek new converts to their faith. Laws on apostasy or blasphemy, which are often framed as "anti-incitement legislation", exist in at least 69 States, and reflect the idea that the expression of certain views within a society may create "discontent", subvert "national unity" or undermine public order and public safety (see A/72/365, para. 27). In some jurisdictions, anti-terrorism legislation targets newer religious communities and is being used to generate cases of alleged blasphemy offenses in counter-terrorism courts.

48. The role that the Internet has played in the recruitment or radicalization of individuals has led many States to adopt a combination of repressive legislative measures to block, filter and ban specific content or entire websites. Security considerations are often claimed as the legal basis for the existence and implementation of such laws and actions. Despite the argument of some States that the intended goal of such laws is the improvement of "social harmony" as well as safeguarding security, in actual fact such measures often undermine the safety and equality of individuals adhering to different faiths (ibid.). In some cases, mechanisms have been set up to identify and refer content to Internet and social media companies for removal.[20] In other cases, anti-blasphemy and anti-apostasy laws are used to prosecute opinions or beliefs expressed in online forums.

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[16] Donna Sullivan, "Advancing the freedom of religion or belief through the United Nations Declaration on the Elimination of Religious Intolerance and Discrimination", *American Journal of International Law*, vol. 82, No. 3 (1988).

[17] Article 19, *The Johannesburg Principles on National Security, Freedom of Expression and Access to Information* (London, 1996). Available at www.article19.org/data/files/pdfs/standards/joburgprinciples.pdf.

[18] International law permits the criminalizing of hate speech only where it amounts to incitement to discrimination, hostility and violence, as stipulated in the International Covenant on Civil and Political Rights, art. 20, para. 2.

[19] Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 48.

[20] See, for example, European Union Agency for Law Enforcement Cooperation (Europol), "Internet referral unit to combat terrorist and violent extremist propaganda", press release, 1 July 2015.

49. Since 2012, accusations of online blasphemy have risen, and new threats and patterns of violence have emerged.[21] Individuals using the Internet to disseminate views considered blasphemous are increasingly facing arrest and prosecution. The arrests are often capricious, creating an atmosphere of fear in which Internet users are unsure of the boundaries within which their rights can be exercised. Alarmingly, online speech, usually expressed through social media websites, can also lead to offline mob violence (ibid., para. 31). The securitization of online activity has provided a wide margin of operation for national authorities without proper scrutiny.

50. One particular case is that of a blogger who has been imprisoned since January 2014 after being convicted of apostasy for criticising caste-based discrimination.[22] Similarly, in 2015 a court sentenced a poet to death for apostasy stemming from his reportedly obscene comments about religious figures and the State, but also for passing around a book he wrote that promoted atheism and unbelief.[23] There is also an intrusion of national security concerns into this specific field, which is illustrated by the fact that some apostasy trials are conducted in the same manner as trials regarding threats to national security.[24] There are also cases where people are charged under anti-blasphemy laws (even for activities on social media and/or for engagement in conversations on a social network) and such trials are conducted in counter-terrorism courts.

51. The Special Rapporteur notes that any effort to prevent terrorist radicalization on the Internet (such as regulating, filtering or blocking online content deemed to be illegal under international law) should follow international human rights standards so as to avoid unlawfully impacting on the freedom of expression and the free flow of information. As stressed by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, David Kaye, content restrictions must always meet the tests of legality, necessity, legitimacy, proportionality and non-discrimination, and must be subject to due process (see A/HRC/38/35, para. 66). These measures should not be used to target dissent and critical speech.

52. Governments have also focused on groups and individuals that exploit freedom of expression by spreading messages of intolerance that do not meet the threshold of incitement to discrimination or violence according to article 20, paragraph 2, of the International Covenant on Civil and Political Rights, but that do merit condemnation (see A/HRC/22/17/Add.4, appendix, para. 20). This includes speech that is not a direct call for action but establishes the ideological basis for violent action. These States have sought to adopt new legislation to criminalize "extremist" speech that does not amount to incitement by creating offences that include "advocating" terrorism, the direct or indirect "inducement", "encouragement" or "glorification" of terrorism, or lending material support to terrorism. Others have converted previously civil offences into criminal ones (see A/HRC/31/65). What these new offences have in common are their propensity to deem criminal liability on the basis of the content of a person's speech, rather than the speaker's intentions or contextual assessments of the likelihood or occurrence of violence. The Human Rights Committee has highlighted that offences of "praising", "glorifying" or "justifying" terrorism must be

[21] See Joelle Fiss, "Anti-blasphemy offensives in the digital age: when hardliners take over", analysis paper, No. 25 (Washington, D.C., Brookings Institution, 2016).

[22] Office of the United Nations High Commissioner for Human Rights (OHCHR), "UN experts urge immediate release of detained Mauritanian blogger", 8 May 2018. Available at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23050&LangID=E.

[23] See OHCHR, "SAU 10/2015". Available at https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=21775.

[24] Department of State, United States of America, "2008 Human rights report: Iran", 25 February 2009. Available at www.state.gov/j/drl/rls/hrrpt/2008/nea/119115.htm.

clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.[25]

Policing religious literature

53. Some States have also adopted measures to address concerns that some religious publications (both online and off), including sacred texts, may constitute a threat to peace and security. Some of these States rely on the assessments of Government-appointed "experts" to review religious literature and determine whether or not such material promotes "extremist" or doctrinally unsound views. In the light of such evaluations, States may decide to ban or censor certain religious materials or prohibit their distribution.

54. Justifications for such measures might argue that the text incites violence or contains violent imagery or language, or that the religious or belief community in question claims that their faith is the only path to salvation and truth, which can pose a threat to public order. Religious literature is an aspect of religious expression and therefore equally protected both by freedom of opinion and expression as well as by freedom of religion or belief; any interference with their production or dissemination can constitute a violation of these fundamental freedoms and must be strictly justified in line with the criteria set out in article 18, paragraph 3, and article 19, paragraph 3, of the International Covenant on Civil and Political Rights.

55. Moreover, the appointment of State "experts" to determine "authentic" interpretations of foundational texts of religions of beliefs can be problematic for several reasons. It may amount to a paternalistic interference in the right of individuals to determine for themselves how to engage peacefully with religious and philosophical beliefs, and it is contrary to the obligation of States to be an impartial guarantor of the rights to freedom of religion or belief of all persons within their jurisdictions. It may also violate the collective dimension of freedom of religion or belief, which includes doctrinal autonomy. State-sponsored interpretations of religion or belief are frequently associated with acts of intolerance.

V. Mobilizing freedom of religion or belief to promote societal resilience against violent extremism

56. A growing body of scholarship highlights the role that freedom of religion or belief plays in promoting pluralistic societies which can sustain democratic governance based on the rule of law and respect for human rights, and its contribution to creating environments of mutual respect, tolerance and understanding among people of different religions, beliefs and cultures.[26] Environments in which the right to freedom of religion or belief is promoted and protected often foster safe spaces wherein hateful, violent narratives can be openly challenged. Moreover, freedom of religion or belief can advance peaceful coexistence and sustain societal cohesion, which are essential to public order, safety and long-term security. Individuals responsible for meeting security needs should engage with and listen to those who

[25] Human Rights Committee, general comment No. 34 (2011) on the freedoms of opinion and expression, para. 46.

[26] See Faiza Patel and Amrit Singh, "The human rights risks of countering violent extremism programs". See also Anthony Gill and Timothy Shah, "Religious freedom, democratization, and economic development: a survey of the causal pathways linking religious freedom to economic freedom and prosperity and political freedom and democracy", paper presented at the Annual Meeting of the Association for the Study of Religion, Economics, and Culture, Washington, D.C., 13 April 2013. Available at www.asrec.org/wp-content/uploads/2015/10/Gill-Shah-Religious-freedom-democratization-and-economic-development.pdf.

exercise agency with regard to freedom of religion or belief, as well as actors involved with promoting civil liberties.

57. In this spirit, United Nations engagement with regard to promoting respect for freedom of religion or belief has focused on eliminating intolerance and discrimination on the basis of religion or belief[27] and has spawned a number of initiatives that address concerns related to the advocacy of religious hatred and mass atrocities. Of particular relevance are measures to combat intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons based on religion or belief (see Human Rights Council resolution 16/18). Likewise, initiatives developed in the context of mass atrocity prevention, and which are grounded in international human rights law, can also play a useful role in strengthening societal resilience against violent extremism. These activities identify specific roles and practical measures not just for Governments, but also for civil society and faith-based actors. However, while their relevance to the wider international strategies for countering terrorism has been recognized by the Secretary-General's Plan of Action to Prevent Violent Extremism,[28] care must be taken not to securitize dialogue and engagement with religious or belief actors or to instrumentalize these initiatives for objectives related to preventing and countering violent extremism.

58. Developing collaborative networks of faith-based actors to promote human rights is clearly a worthy goal, especially with regard to fostering respect for pluralism. In many cases, religious organizations themselves provide the best hope of spreading the message of tolerance and reconciliation that will help ensure an individual's right to practice her or his religion in peace in whatever country she or he resides. However, care must be taken to ensure that such approaches are inclusive and accessible to all, without discrimination with regard to any protected characteristic. It is also important to ensure that such collaborative networks commit to the rights and freedoms enshrined in international human rights law. Failure to do so might contribute to reinforcing various stereotypes and forms of intolerance.

A. Human Rights Council resolution 16/18 and the Istanbul Process

59. The Istanbul Process for Combating Intolerance, Discrimination and Incitement to Hatred and/or Violence on the Basis of Religion or Belief, which has been facilitating, since 2011, the implementation of the agenda identified in Human Rights Council resolution 16/18, has been endorsed by human rights experts as "a promising platform for effective, integrated and inclusive action by the international community" (see A/HRC/22/17/Add.4, appendix, para. 41). The resolution identifies a comprehensive, action-oriented strategy that comprises a mix of legal, policy and administrative measures as well as outreach programmes to promote equality, pluralism, participation, understanding and community cohesion and resilience.

60. Although the Istanbul Process is not generally regarded as a tool to prevent and counter violent extremism, some of the early activities that were implemented under its framework, particularly the training of law enforcement officials in detecting and responding to incitement, clearly bear out the relevance of the Istanbul Process to efforts to prevent and counter violent extremism. Likewise, the most recent meeting of the Istanbul Process, held in Singapore in July 2016, identified practical community-based projects that fostered societal cohesion and resilience against

[27] Marc Limon, Nazila Ghanea and Hilary Power, "Fighting religious intolerance and discrimination: the United Nations account", *Religion and Human Rights*, vol. 11, No. 1 (April 2016).

[28] See, for example, paras. 36 and 49.

advocacy of hatred. However, most of the other meetings held under the auspices of the Istanbul Process focused more on normative contestation and politicization and externalization of concerns, rather than a practitioner-focused, introspective engagement across a wide range of stakeholders.

61. Amid rising intolerance and concerns about the negative impacts of some activities to prevent and counter violent extremism, the Special Rapporteur recommends that States revitalize the Istanbul Process at a practitioner level, aimed at learning from best practices and fostering introspection and collaboration on capacity-building. The added value of the Istanbul Process is its usefulness as a guide for States to promote religious pluralism while mitigating some of the negative side effects of policies to prevent and counter violent extremism and fostering long-term cohesion.

B. Rabat Plan of Action

62. Another related and important soft law standard is the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (see A/HRC/22/17/Add.4, appendix), which was adopted by experts at a meeting in Rabat in October 2012. The Special Rapporteur and his predecessor have outlined the importance of the Rabat Plan of Action in addressing advocacy of religious hatred that constitutes incitement to violence, discrimination and hostility (see A/HRC/25/58, A/HRC/28/66, A/HRC/31/18, A/HRC/34/50 and A/72/365). It provides practical guidance through a six-part test that takes into account the context of the statement, the speaker's position and intent, the content and extent of the speech and the likelihood that the speech would incite action against the target group (see A/HRC/22/17/Add.4, appendix, para. 29). This test is being used by the national authorities for audiovisual communication in Côte d'Ivoire, Morocco and Tunisia (see A/HRC/37/3, para. 69), and the European Court of Human Rights also referred to the Rabat Plan of Action in a recent judgment.[29]

63. In a thematic resolution, the Human Rights Council called for the international community's effective implementation of resolution 16/18, the Istanbul Process and the Rabat Plan of Action "in order to contribute to a more conducive environment to countering hate speech and violence" (see Human Rights Council resolution 34/8). Similarly, in a country-specific resolution, the Human Rights Council encouraged the Government of Myanmar to increase further efforts to promote tolerance and peaceful coexistence in all sectors of society in accordance with Council resolution 16/18 and the Rabat Plan of Action (see resolution 34/22). In his July 2018 update on the situation of human rights of Rohingya people, the High Commissioner for Human Rights referred to resolution 16/18 and the Rabat Plan of Action, as well as to the Beirut Declaration on Faith for Rights and its 18 commitments (see below), in order to address advocacy of hatred that incites violence, discrimination or hostility, particularly when it is conducted in the name of religion or belief.[30] This illustrates the complementarity and practical usefulness of these soft law standards.

[29] European Court of Human Rights, *Case of Mariya Alekhina and Others v. Russia*, paras. 110, 187, 190–191 and 223. See also the separate opinion of Judge Elósegui, para. 14.

[30] See A/HRC/38/CRP.2, para. 4. Available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session38/Pages/ListReports.aspx.

C. Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes

64. Building on the Rabat Plan of Action, a process was initiated in April 2015 to assess the specific role that religious leaders and actors can play in preventing incitement to violence that could lead to atrocity crimes (i.e., genocide, war crimes and crimes against humanity). In July 2017, the Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes (the Fez Plan of Action) was launched with recommendations that address three broad themes, including those which: (a) aim to prevent incitement to violence, including violent extremism and gender-based violence; (b) strengthen tools to prevent such incitement; and (c) reinforce the conditions conducive to preventing incitement to violence by fostering peaceful, inclusive and fair societies and by implementing international human rights standards.[31] Recommendations offered to faith leaders and actors by the Fez Plan of Action can also contribute to the prevention of incitement to violent extremism by encouraging these actors to confront ideologies that promote violent extremism and terrorism; address topics that religious extremists monopolize, including through the provision of accurate and nuanced viewpoints; provide counternarratives to those attracted by or who are part of violent extremist and terrorist groups; and build the resilience of communities, and of youth in particular, to violent extremism. Notably, it recommends implementing a holistic approach to preventing violent extremism rather than a security-based approach.[32] In addition to the Rabat Plan of Action, the Fez Plan of Action should be read in conjunction with the Framework of Analysis for Atrocity Crimes, which can add value to strategies to prevent and counter violent extremism through its insights on risk factors and building societal resilience.[33]

D. The Secretary-General's Plan of Action to Prevent Violent Extremism

65. The Secretary-General outlined his Plan of Action to Prevent Violent Extremism in December 2015, calling on States to firmly anchor their strategies, policies and actions in the four pillars of the United Nations Global Counter-Terrorism Strategy. He noted the central importance of respecting human rights in preventing violent extremism and highlighted contextual and background factors such as the absence of the rule of law, poverty, deprivation, discrimination, unresolved conflicts and disregard for human rights as factors which can amplify the receptiveness of target audiences to violent extremist narratives. While the Secretary-General noted that definitions of "terrorism" and "violent extremism" are the prerogative of States, he stressed that such definitions must be consistent with States' obligations under international law, in particular international human rights law (see A/70/674, para. 5). He identified a range of actions that the international community, States and non-State actors could take to prevent violent extremism.

66. One of the action points identified by the Secretary-General was to "engage religious leaders to provide a platform for intra- and interfaith dialogue and

[31] United Nations, *Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence That Could Lead to Atrocity Crimes* (World Council of Churches, Network for Religious and Traditional Peacemakers, Kaiciid Dialogue Centre). Available at www.un.org/en/genocideprevention/documents/Plan_of_Action_Religious_Prevent_Incite.pdf.

[32] Ibid., p. 18.

[33] United Nations, "Framework of analysis for atrocity crimes: a tool for prevention" (New York, 2014). Available at www.un.org/en/genocideprevention/documents/publications-and-resources/Framework%20of%20Analysis%20for%20Atrocity%20Crimes_EN.pdf.

discussions through which to promote tolerance and understanding between communities, and voice their rejection of violent doctrines by emphasizing the peaceful and humanitarian values inherent in their theologies" (ibid., para. 49 (e)). He further recommended the use of the Rabat Plan of Action in support of a comprehensive approach to addressing issues of incitement and violent extremism (ibid., para. 50 (i)).

E. "Faith for Rights" framework

67. The "Faith for Rights" framework, which was launched in March 2017 through the Beirut Declaration on Faith for Rights and its 18 commitments,[34] highlights that religious leaders are potentially very important human rights actors in view of their considerable influence on the hearts and minds of hundreds of millions of believers. The underlying rationale is expressed in the commitment to "leverage the spiritual and moral weight of religions and beliefs with the aim of strengthening the protection of universal human rights and developing preventative strategies".[35]

68. The undertaking expressed in the Beirut Declaration to enhance cohesive, peaceful and respectful societies by mobilizing faith-based actors behind the human rights framework is particularly well illustrated by the commitments to: support and promote equal treatment in all areas and manifestations of religion or belief; ensure non-discrimination and gender equality; stand up for the rights of all persons, including those belonging to minorities; publicly denounce all instances of advocacy of hatred that incite violence; refrain from oppressing critical voices or giving credence to exclusionary interpretations on the basis of religious grounds; and condemn judgmental public determinations by any actor who in the name of religion aims to disqualify the religion or belief of another individual. The holistic human rights approach of the "Faith for Rights" framework is further expressed in the commitment to defend the freedom of expression, including academic freedom and the promotion of tolerance through formal education channels. It also emphasizes the important role of parents and families in detecting and addressing early signs of vulnerability of children and youth to violence in the name of religion.

VI. Conclusions and recommendations

69. **Terrorism and violent extremism pose direct threats to the enjoyment of human rights, ranging from the right to life and the right to liberty and security of person to freedom of expression, association and thought, conscience and religion. States have an obligation to protect from violence all individuals within their territories and subject to their jurisdictions. However, the failure to uphold human rights obligations while pursuing these measures has also caused an alarming uptick in human rights violations, including undue restrictions on freedom of religion or belief.**

70. **Over the past two decades, United Nations experts, human rights organizations, religious leaders and activists, as well as counter-terrorism specialists, have raised serious concerns about the inverse relationship between ill-defined security measures and the protection of human rights, demonstrating the detrimental impact that measures to counter terrorism or prevent violent extremism have had on the enjoyment of the freedom of religion or belief and the**

[34] OHCHR, *Faith for Rights* (Geneva, 2018). Available at www.ohchr.org/Documents/Press/Faith4Rights.pdf.

[35] OHCHR, "18 commitments on 'Faith for Rights'", commitment XVI. Available at www.ohchr.org/Documents/Press/21451/18CommitmentsonFaithforRights.pdf.

fundamental freedoms on which this right depends. The paradox, as researchers have stressed, is that in many places denying freedom of religion or belief has resulted in less order and more violence. It seems, they note, that that there is a correlation between restrictions on freedom of religion or belief and increases in conflict and violent religious persecution, and that it is not pluralism that threatens public order, but rather attempts to repress it that breeds the conditions for conflict.

71. In line with the commitment to advance a human rights approach when preventing violent extremism, it will be important for States to ensure that they fully discharge their obligation to respect, protect and promote the right to freedom of religion or belief if they are to make inroads in fulfilling national security needs. However, the implementation of these obligations should not be seen as arising primarily from their instrumental value in preventing violent extremism. Rather, they should be viewed as compulsions informed by the normative and legal obligations incumbent upon States.

72. In recognizing the inadequacies of counter-terrorism responses enacted at the start of the millennium to address rising acts of violent extremism, a shift in the approach taken by the United Nations towards combating these phenomena has developed over the past decade (see A/70/371, para. 14, and Security Council resolution 2129 (2013), para. 19). This change was, in part, designed to move away from a narrow, security-oriented approach to combating ideologically motivated violence towards a more "holistic" strategy aimed at engaging with and addressing the varied drivers of violent extremism and terrorism as preventive measures.

73. While noting the importance of preventing violent extremism, and further stressing that such an approach must remain a priority, the Special Rapporteur, contends that the goal of bringing the reach and expertise of a variety of societal actors to bear on the development and implementation of preventive strategies has been undermined. Many of the institutions and processes maintained and promoted by these actors have been co-opted at the national level — essentially rendering them the "eyes and ears" of security apparatuses, rather than guides in a broader approach to countering an existential threat. Strategies to prevent and counter violent extremism that seek to engage whole societies in fostering resilience against intolerance and violent extremism risk failing if they become a back door through which an increasing range of socioeconomic sectors, cultural activities and ethnic and religious communities are viewed through a security lens. The corresponding result could be counterproductive, undermining social cohesion, alienating communities, diminishing trust and possibly aggravating some of the drivers of violent extremism.

74. Furthermore, while security and the enjoyment of human rights are mutually reinforcing, the manner in which this synergy is obtained is not by subjecting freedom of religion or belief and other human rights to a security test or a utility analysis, but by ensuring that legitimate concerns about national security and public safety are pursued within the regime of limitations and derogations provided for by the United Nations human rights framework. This regime identifies exhaustive grounds and specific criteria for limitations and permissible scope for derogations. The perception that security needs cannot be met while respecting human rights, including the broad constellation of rights related to the exercise of the right to freedom of religion or belief, may amount to negating the human rights framework and could imperil the foundation of peace, freedom and justice in the world.

75. International human rights law stipulates that any distinction, exclusion or preference that, by design or in its application, nullifies or impairs the enjoyment of human rights and fundamental freedoms is unlawful unless distinctions are based on objective and reasonable criteria. Therefore, restrictions imposed on the rights of persons belonging to religious or belief communities, such as the ability to disseminate religious teachings, construct and maintain places of worship or communicate with co-religionists across borders, or that curtail freedoms of movement and association or the right to privacy, must meet the above-mentioned tests. Such restrictive measures must further be subject to accountability, including judicial oversight and access to remedy. It is when these conditions are met that the synergies between human rights and security will be better realized and religion or belief can contribute to building resilience against violence in the name of religion.

76. The Special Rapporteur asserts that, where freedom of religion or belief and the range of rights on which it depends are respected, the space and scope for counternarratives to be effective against intolerant messages increases. Measures such as awareness-raising, education and interreligious communication and intra-faith dialogue can more broadly play a positive role in countering hateful narratives and ideologies and combating religious discrimination and hatred, thereby ensuring security. The above approach requires a larger methodological framework with a consistent human rights-based approach. The Special Rapporteur therefore intends to promote a discussion among interested stakeholders in order to develop a manual for faith-based actors that allows them, in their respective environments and in an adaptive manner, to counter hateful narratives and to illustrate how faith(s) can contribute to human rights.

77. Given the role that religious or belief interpretations and identity play in violent extremism, States must focus on strengthening respect for freedom of religion or belief in accordance with the international legal framework. International human rights law does not protect every act motivated by religious conviction and in fact notes that freedom of religion or belief cannot be invoked to destroy any of the other rights guaranteed by the human rights framework. Moreover, the right to freedom of religion or belief includes a right to non-discrimination and equality.

78. The Special Rapporteur would like to reiterate the recommendations made by the High Commissioner for Human Rights, and by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, to ensure vigilant action by States to protect from violence all individuals within their territories and those subject to their jurisdictions, while fully respecting international human rights law; undertake further research on the phenomenon of radicalization; pursue evidence-based policies that meet the human rights obligations of States; and ensure a gendered perspective that complies with the duty to respect, protect and promote the human rights of women, children and sexual minorities.

79. The Special Rapporteur specifically calls upon States to:

(a) Recognize the utility of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief adopted by the General Assembly in 1981 as a guide in preventing violent extremism and, in this context, especially respect and protect the freedoms enumerated in article 6 of the Declaration;

(b) Implement fully the action plan detailed in paragraphs 5 and 6 of Human Rights Council Resolution 16/18 in the interests of fostering pluralism,

inclusion and societal cohesion, comply with the reporting requirements under the resolution and convene the seventh meeting of the Istanbul Process as a mechanism to exchange information on good practices and promote the implementation of the action plan;

(c) Operationalize the call in the Secretary General's Plan of Action to Prevent Violent Extremism to promote engagement with religious leaders and faith-based actors and, in this context, invest in the dissemination and implementation of the Rabat Plan of Action, the Beirut Declaration on Faith for Rights and the Fez Plan of Action, which provide a chart of specific commitments as well as a number of practical measures to address the related phenomena of incitement to religious hatred, discrimination and violence;

(d) Develop national action plans, with the participation of national human rights institutions, civil society organizations and development partners, to facilitate the implementation of the specific roles contained in the aforementioned tools for national and international actors, including the mass media, judicial authorities, oversight bodies, civil society, religious leaders and faith-based actors.

80. The Special Rapporteur also calls upon the respective United Nations mechanisms to facilitate transparency in the implementation by States of Human Rights Council resolution 16/18 and of the steps taken by key stakeholders to operationalize the Rabat Plan of Action, the Fez Plan of Action and the Beirut Declaration and its 18 commitments, and to support the convening of the seventh meeting of the Istanbul Process.